IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

DEUTSCHE BANK NATIONAL TRUST	§	
COMPANY, AS TRUSTEE FOR	§	
MORGAN STANLEY ABS CAPITAL I	§	
INC. TRUST 2003-HE2 MORTGAGE	§	
PASS-THROUGH CERTIFICATES,	§	
SERIES 2003-HE2,	§	
	§	
	§	
Plaintiff,	§	Civil Action No. 5:19-cv-588
Plaintiff,	§ §	Civil Action No. 5:19-cv-588
Plaintiff, v.	§ § §	Civil Action No. 5:19-cv-588
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,	\$ \$ \$ \$ \$ \$	Civil Action No. 5:19-cv-588
v.	\$ \$ \$ \$ \$ \$	Civil Action No. 5:19-cv-588
v. GLENDA HINOJOSA AND ROY	00 00 00 00 00 00 00	Civil Action No. 5:19-cv-588
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PLAINTIFF'S MOTION FOR ATTORNEY'S FEES

Plaintiff Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2003-HE2 Mortgage Pass-Through Certificates, Series 2003-HE2 ("Plaintiff") files this *Motion for Attorney's Fees* ("Motion"), and respectfully shows the Court:

- 1. On May 31, 2019, Plaintiff filed its *Original Complaint* against Glenda Hinojosa and Roy Hinojosa seeking an order allowing foreclosure against their interest in certain real property. (ECF Doc. No. 1.)
- 2. On August 12, 2020, Plaintiff filed its Amended Motion for Default Judgment against Defendants Glenda Hinojosa and Roy Hinojosa (ECF Doc. No. 19.) The Court granted plaintiffs motion and entered default judgment against Defendants on September 11, 2020. (ECF Doc. No. 20.) In its order the Court allowed Plaintiff to submit its request for attorney's fees pursuant to Federal Rule of Civil Procedure 54(d)(2)(B)(i). (*Id.*).

- 3. Plaintiff incurred \$9,784.50 in reasonable and necessary attorneys' fees in filing and prosecuting Plaintiff's claims to enforce its interest in certain real property as a result of the default under the loan agreement made subject to this suit. *See* **Exhibit A**, Declaration of Mark D. Cronenwett. A true and correct copy of the detailed billing statements showing the attorneys' fees by name, date, and amount is attached hereto as **Exhibit A-2**. Accordingly, in this Motion, Plaintiff requests an award of attorneys' fees in the amount of \$9,784.50 that it has incurred in this case.
- 4. Plaintiff is entitled to attorneys' fees pursuant to Texas Civil Practice and Remedies Code section 38.001 because this suit is to enforce a written contract through foreclosure. *See* TEX. CIV. P. REM. CODE § 38.001(8). Furthermore, the loan contract provides for recovery of reasonable attorneys' fees incurred in pursuit of foreclosure. (*See* ECF Doc. No. 1-1 p. 14, ¶ 9; p.3 ¶2; p. 5, ¶7B). Plaintiff seeks attorney's fees as an additional debt secured by the subject Security Instrument and not as a personal judgment against the Defendants.

PRAYER

For these reasons, Plaintiff Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2003-HE2 Mortgage Pass-Through Certificates, Series 2003-HE2 requests that the Court award it its attorneys' fees in the total amount of \$9,784.50, to be recovered from as a further obligation owed by them under the Note and Security Instrument made basis of this suit. Plaintiff also prays for all relief, whether at law or in equity, to which it is justly entitled.

Respectfully submitted,

By: <u>/s/ Samin Hessami</u> **MARK D. CRONENWETT** Texas Bar No. 00787303

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CERTIFICATE OF SERVICE

The undersigned certifies that on September 15, 2020 a true and correct copy of the foregoing document was delivered to the following Defendants in the manner described below:

Via U.S. Mail

Glenda Hinojosa Roy Hinojosa 7505 Leading Oaks Street Live Oaks, Texas 78233

/s/ Samin Hessami

SAMIN HESSAMI